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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,859	09/04/2003	Guy Bevente	1033-FT004	4643
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EXAMINER				
LANEAU, RONALD				
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3714				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/654,859

Applicant(s)

BEVENTE ET AL.

Examiner

Ronald Laneau

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/22)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/01/10 has been entered.

Status of Claims

2. Claims 39-59 remain pending in the application.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

As per claims 36-59, the claimed invention is also directed to a telecommunications subscriber service package using shared account units and non shared account units to allocate to subscriber service. As disclosed in the spec, the "package" is a pricing plan that includes "allotments" which is just an amount of a service such as "minutes" in a calling plan, and could also include rates and rules of use (See fig. 13 for an example of a package). This is clearly non-statutory and even if put on a medium would be just data per se and would still be non-statutory.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 36-59 are rejected under 35 U.S.C. 102(a) as being anticipated by over Friedes (US 5,771,282).

As per claims 36-38, Friedes discloses a telecommunications subscriber service package comprising a computer-readable medium to: store: an allocation of unshared account units for use of a first subscriber service (wireline or long distance service, fig. 1, 12, 14, 16, 18) and available for use of a second subscriber service (wireless service, fig. 1, 20), the first subscriber being distinct from the second subscriber service (wireline or long distance service is different from wireless service); and store instructions that, when executed by the processor, cause the processor to determine a type of account units to be utilized by the first subscriber service based on the number of unshared account units remaining, wherein the allocation of unshared account units is utilized by the first subscriber service prior to utilization of the allocation of shared account units by the first subscriber service (shared accounts are accounts in the same group or family plans, unshared accounts are individual or single plans); and store instructions that, when executed by the processor, cause the processor to allocate the determined type of account units to the first subscriber service (Friedes disclose a database that stores all different types of accounts for the subscribers). This invention is basically a collection of nonfunctional descriptive material or a mere arrangement of data that will not distinguish

the claimed invention from the prior art in terms of patentability and even if it is recorded on a medium, it is not statutory since no requisite functionality is present to satisfy the practical application requirement. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Zowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

As per claims 39, 46 and 53, Friedes discloses a method wherein the shared telecommunication units are shared telecommunication minutes (see fig. 1).

As per claims 40, 47 and 54, Friedes discloses a method wherein the first subscriber service is a land-line telecommunications service (wireline or long distance service, fig. 1, 12, 14, 16, 18) and the second subscriber service is a mobile telecommunications service (wireless service, fig. 1, 20).

As per claims 41, 42, 48, 49, 55 and 56, Friedes discloses a method wherein the land-line telecommunications service comprises a long distance telephony service and wherein the land-line telecommunications service comprises a local telephony service (see fig. 1).

As per claims 43, 50 and 57, Friedes discloses a method wherein the first subscriber service is associated with a first operating entity and the second subscriber service is associated with a second operating entity (see abstract).

As per claims 44, 45, 51, 52, 58 and 59, Friedes inherently discloses a telecommunications subscriber package wherein the second allocation of second subscriber account units is available during specific time periods; wherein the allocation

of shared account units is available for a period of time and wherein the period of time is one month (all subscriptions are usually on a monthly billing cycle).

Response to Arguments

6. Applicant's arguments filed 09/01/10 have been fully considered but they are not persuasive.

Applicant's amendments overcome the 101 rejection to claims 36-38 as far as the non-transitory but the 101 rejection to claims 36-59 remain as far as the data per se. Applicant further argues that Friedes fails to disclose "a non-transitory computer-readable medium to store an allocation of shared accounts units for use of a second subscriber service and available for use of a first subscriber service." In response to Applicant's arguments, the system of Friedes does store allocation of shared account units in a database because whenever you have a shared account, the act of allocating various expenses among the accounts is obvious to do. One would have to know whether this account is a landline or a wireless service when doing the allocations to put into the billing system. In response to Applicant's arguments, the whole disclosure of Friedes is about a billing technique for telecommunication services which would include the allocation of account units as claimed. Before the system does any allocation or aggregation, it has to determine which type of accounts and which subscriber it belongs to. This is inherent for the system of Friedes and as a result, claims 36-59 remain rejected.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Lancau whose telephone number is (571)272-6784. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Lewis can be reached on (571) 272-7673. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ronald Lancau/
Primary Examiner
Art Unit 3714

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